1 Floor Single Bench (3)

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition NO. 3975 /2004

PETITIONER : Rajkumar Updhayay, S/o. Late Shri Manohar Lal Upadhyay Aged 56 years, R/o. Main Road Janjgir, District Janjgir-Champa (C.G.)

P.R. No. 3975/04 Presented by Shri Ramkrishna Banerjee dated 29/12/04

VERSUS

RESPONDENTS :

1. State of Chhattisgarh Through Secretary Irrigation Department D.K.S. Bhawan Raipur (C.G.)
2. The Executive Engineer, Hasdeo Canal Water Management, Division-Janjgir Distt. Janjgir-Champa (C.G.)
3. Sub - Divisional Officer Hasdeo Sub-Minor W.M. Sub-Division No.4 Post Nawagarh, Janjgir Champa, Distt. Janjgir-Champa (C.G.)

Clerk to A. G. Bilaspur

WRIT PETITION U/A 226/227 OF THE CONSTITUTION OF INDIA

The petitioner most humbly and respectfully begs to prefer this petition as under :-

1. **PARTICULARS OF THE PETITIONER**

As stated above in the cause title.

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(29)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक ..... W.P.3975/ सन् 2004

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

20-4-2005

On a mention being made, the case is taken up for hearing.

Mr. Ramakant Pandey, counsel for the petitioner.

Mr. Sanjay Shyam Agrawal, Govt. Advocate for the State/ respondents.

Heard both the counsel.

By this writ petition under Article 226/227 of the Constitution of India, the petitioner has questioned the legality and propriety of the order dated 31-12-2002 (Annexure P-1), whereby the petitioner has been removed from the service on attaining the age of 55 years.

The petitioner's case is that he was appointed as daily wages Chowkidar on 1-10-1979 in the Irrigation Department at Seoni, thereafter, he was posted at Nawagarh Sub Division and worked there up to 31-12-2002 with utmost honesty and sincerity. All of a sudden on 31-12-2002 the petitioner was removed from service without assigning any reason and also without serving any notice on the ground that he has attained 55 years of age. The petitioner submitted a representation on 16-9-2004 (Annexure P-2) to the Executive Engineer, Water Resources Department, to take him back and allow him to continue in the service upto 60 years of age. The petitioner has mentioned in para 6.3 & 6.4 (Grounds) of the petition that he is entitled to continue upto 60 years of age in view of the order passed by this Court in W.P.Nos.2522/2003 and 1831/2004 (Annexures P-3 & P-4).

On the last date of hearing i.e. 4-2-2005, 15 days' time was allowed to the State/respondents to file return. But so far, even after the lapse of round about ten weeks, no return has been filed.

I have perused the petition. Perusal of the order Annexure P-3 whereby this Court decided W.P.No.2522/2003 reveals that the irrigation

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P.3975 सन् 2004

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित —2—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Department vide order dated 16-8-2004 has cleared the position and mentioned that order dated 9-3-2000 was issued in respect of those daily wage workers, who were not able to perform their duties after attaining 55 years, may not be allowed to continue after attaining the age of 55 years. The last para of circular dated 16-8-2004 envisages that now the Government has taken a decision that in the Irrigation Department retirement age of the employees will remain 60 years as it was earlier.

Learned counsel for the petitioner submits that in view of this Court's order passed in the above two writ petitions, the petitioners therein have been taken back on service, and the present petitioner is also entitled for similar treatment.

The prayer made by learned counsel for the petitioner seems to be fair and reasonable. The basis is strong. Therefore, in view of this Court's orders dated 29-9-2004 and 8-7-2004 passed in W.P.Nos.2522/2003 and 8-7-2004 respectively, the respondents are directed to give similar treatment to the petitioner herein and pass order accordingly. The petitioner to approach the respondents with a representation along with a copy of the order of this Court.

With the observation and direction aforesaid, the petition stands disposed of.

Consequently, M.(W.)P.No.4377/2004 also stands disposed of.

Parties are entitled for certified copy of this order.

Sd/-
L.C.BHADOO
Judge

Soma

(पीछे देखिये)